



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
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OFFICE OF
ENVIRONMENTAL CLEANUP

JAN 04 2011

Ms. Pamela K. Miller
Executive Director
Alaska Community Action on Toxics
505 West Northern Lights Boulevard, Suite 205
Anchorage, Alaska 99503

Dear Ms. Miller:

In my June 18, 2010, letter to you, I informed you of the U.S. Environmental Protection Agency (EPA) Region 10's plans to conduct an updated Preliminary Assessment (PA) at the Flint Hills Resources' North Pole Refinery as requested by your organization. I also committed to having the PA report completed by the end of November 2010 and informing you of any changes to this deadline. EPA has been working to complete the PA, but a number of other processes are currently ongoing related to the site. Their outcomes have the potential to affect our assessment.

As a part of the PA process, additional information is gathered about a site's eligibility for Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) response actions. Information, not previously known, may surface that affects a site's eligibility. A number of statutory and policy provisions affect a site's eligibility for CERCLA response actions. Certain types of releases and wastes are specifically excluded. There have been a number of releases at the North Pole Refinery. Petroleum and petroleum wastes have been a part of these releases. Releases of petroleum are excluded from CERCLA¹. However, there are exemptions to the exclusion of petroleum. EPA is in the process of determining if any of these exemptions apply to the North Pole Refinery.

Region 10 and Alaska Department of Environmental Conservation (DEC) risk assessors have been working closely with EPA Headquarters to evaluate the toxicity of sulfolane. Currently EPA is working to develop a Provisional Peer Reviewed Toxicity Value² (PPRTV)

¹ CERCLA sections 101(14) and (33) exclude petroleum from the definitions of "hazardous substance" and "pollutant or contaminant," respectively. The exclusion applies to petroleum, including crude oil or and fraction thereof (if the fraction is not specifically listed nor designated a hazardous substance by other listed acts), natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel.

² EPA's Office of Research and Development/National Center for Environmental Assessment/Superfund Health Risk Technical Support Center develops PPRTVs on a chemical-specific basis when requested by the EPA's Superfund program for use in site specific risk assessments. Their development typically includes a limited evaluation of information on mode of action, other toxicological end points, and other information that provides a better understanding of the toxicology of these chemicals. Often, the amount of relevant information on the toxicity of these chemicals is less because fewer studies have been conducted and reported. However, the PPRTVs are generally the best quantification of the dose-response scientific data that is available at the time they are developed because the PPRTVs utilize current information and methodologies.

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background document for sulfolane. This document is expected to be completed in the spring of 2011. Once this document is complete, a drinking water benchmark may be able to be established for use in developing a Hazard Ranking System (HRS) score for the site. Due to the large number of North Pole resident wells that have been affected, having a benchmark has the potential to affect the site's HRS score.

Currently Flint Hills Resources Alaska is conducting site characterization activities at the North Pole Refinery Site. These activities involve the collection of data to further understand the nature and extent of contamination at the facility as well as off site. This characterization work is scheduled to be completed by the spring of 2011. This data is additional information that EPA can potentially use within the PA and HRS score.

Due to the potential for these items to affect the outcome of our assessment, EPA would like to wait before completing the PA. Once these items have been completed, we will have a better sense on how to proceed. Should you have any questions, please do not hesitate to contact Brandon Perkins of my staff at 206-553-6396 or by email at perkins.brandon@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel D. Opalski", is written over a horizontal line.

Daniel D. Opalski
Director

cc: Ann Farris, Project Manager
Alaska Department of Environmental Conservation

Brandon Perkins